



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

By Electronic and First Class U.S. Mail

Michael Toner, Esq.
Andrew McBride, Esq.
Stephen Kenny, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

MAY 31 2017

RE: MUR 7248
Richard Stephenson

Dear Messrs. Toner, McBride, and Kenny:

On May 3, 2016, you notified the Federal Election Commission (the "Commission"), in a *sua sponte* submission, of the possibility that your client, Richard Stephenson, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). After reviewing your submission, the Commission on May 9, 2017, found reason to believe that your client violated 52 U.S.C. § 30118. The Commission also found no reason to believe that your client violated 52 U.S.C. § 30122. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law.

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If your client is interested in engaging in pre-probable cause conciliation, please contact Peter Reynolds, the attorney assigned to this matter, at (202) 694-1343 or at preynolds@fec.gov, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your client is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act.

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

Michael Toner, Esq.
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We look forward to your response.

On behalf of the Commission,



Steven T. Walther
Chairman

Enclosures
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**
2 **FACTUAL AND LEGAL ANALYSIS**

3
4 MUR: 7248

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6 RESPONDENTS: Cancer Treatment Centers of America Global, Inc.
7 Eastern Regional Medical Center, Inc.
8 Midwestern Regional Medical Center, Inc.
9 Southeastern Regional Medical Center, Inc.
10 Southwestern Regional Medical Center, Inc.
11 Western Regional Medical Center, Inc.
12 Stephen Bonner
13 Robert Mayo
14 Steven Kroll
15 Phillip Picchietti
16 Richard Stephenson
17 Roger Cary
18 John Conway
19 Scott Jones
20 Christopher Lis
21 Stephen Mackin
22 John McNeil
23 Anne Meisner
24 John Steiner
25 Peter Yesawich
26 Eric Magnussen
27 Edgar Staren
28

29 **I. INTRODUCTION**

30 This matter was generated by a joint *sua sponte* submission by the above respondents.¹

31 The submission notified the Commission that Cancer Treatment Centers of America Global, Inc.

¹ Cancer Treatment Centers of America Global, Inc., its five regional medical centers, and sixteen current and former individual employees joined in the submission. The information in this *sua sponte* submission was received by the Commission in several parts. The first document, filed on January 15, 2015 (the "Initial Submission"), disclosed CTCA's preliminary findings relating to its fundraising activities and the CMI Bonus program and stated that a more thorough investigation was being undertaken. On June 12, 2015, the Commission was provided a document containing data relating to the CMI Bonus program, but no legal analysis or information from witness interviews (the "Supplemental Submission"). On January 8, 2016, outside counsel provided the results of its investigation and accompanying legal analysis (the "Second Supplemental Submission"). On February 25, 2016, the Commission received an additional supplement involving new violations arising from reimbursements to Richard Stephenson and Cornel Williams, in addition to the issuance of at least one direct contribution from CTCA to a candidate committee (the "Third Supplemental Submission"). On April 27, 2016, the Commission was provided information on CMI Bonuses distributed prior to the SOL period ("Fourth Supplemental Submission"). On May 5, the Commission received additional documentation estimating the scope of the corporate facilitation

1 (“CTCA”) ran a bonus program over a 12 year period whereby it used corporate resources to
2 conduct over 45 fundraising initiatives for approximately 31 federal candidates, and reimbursed
3 approximately \$700,000 of political contributions made by its executives with corporate funds.
4 In addition to the reimbursements made pursuant to the bonus program (called “Community
5 Management Incentive Bonuses” or “CMI Bonuses”), CTCA also reimbursed its Chairman and
6 two other individuals for contributions they made from personal accounts, and issued at least one
7 check directly from the corporation’s treasury to a candidate committee.

8 Based on the information in the submission, the Commission finds reason to believe that:

9 (1) CTCA and each of its five regional medical centers violated 52 U.S.C. §§ 30118 and 30122
10 by making prohibited corporate contributions in the name of its corporate executives, (2) CTCA
11 executives Stephen Bonner and Robert Mayo violated 52 U.S.C. §§ 30118 and 30122 by
12 knowingly assisting others in making contributions in the name of another person and consenting
13 to the making of prohibited corporate contributions, and (3) CTCA Chairman Richard
14 Stephenson violated 52 U.S.C. § 30118 by consenting to the making of prohibited corporate
15 contributions. The Commission takes no action against the conduits: CTCA executives Roger
16 Cary, Phillip Picchietti, John Conway, Scott Jones, Steven Kroll, Christopher Lis, Steve Mackin,
17 John McNeil, Anne Meisner, John Steiner, Eric Magnussen, Edgar Staren, and Peter Yesawich.

18

activities (“Fifth Supplemental Submission”), as well as a separate letter adding several individual respondents who were conduits for CTCA’s contributions and requesting that the Commission decline to take action against those individuals (“Sixth Supplemental Submission”). On May 31, the Commission received additional documentation identifying the recipients of contributions made by five individual CMI Bonuses recipients (“Seventh Supplemental Submission”). On June 3, the Commission received information identifying the recipients of contributions made by Bonner using CMI Bonuses (“Eighth Supplemental Submission”) (later revised in an additional submission received on June 21). For discussion purposes, and unless otherwise indicated, we refer to the record collectively as the “Submission.”

II. FACTUAL BACKGROUND

A. The CMI Bonus Program

CTCA is a Florida-based healthcare provider of cancer treatment services founded by its current Chairman, Richard Stephenson.² CTCA operates five separately incorporated regional medical centers.³ According to CTCA, in early 2002 its then-President and CEO, Stephen Bonner, conceived of and initiated the CMI Bonus, a new type of bonus within CTCA's existing spot bonus program.⁴ The CMI Bonuses were provided to select senior executives to enable their personal civic, charitable, political, and other community outreach and were "[d]esigned originally to encourage executive outreach and involvement in the local communities in which CTCA operates."⁵

The bonuses, which were paid through the routine payroll spot bonus process, were typically given in amounts of \$10,000, taxed, and deposited into the personal bank account of the recipient" mostly by direct-deposit, but occasionally via live checks.⁶ The CMI Bonuses were given only to senior executives⁷ and their issuance generally required Bonner's approval,⁸

² Initial Submission at 2; Second Supp. Submission at 1-2, 1. n.1.

³ Second Supp. Submission at 1 n.2. For the purposes of this Report, we refer to CTCA and the regional medical centers collectively as "CTCA."

⁴ *Id.* at 6. Bonner served as President and CEO from 1999 to 2013 and is a former member of the Board of Directors. *Id.* at 1 n.1; *see id.* app. E.1 (Decl. of Stephen Bonner ¶¶ 4-5 (Jan. 4, 2016)); *id.* app. E.9 (Decl. of Robert Mayo ¶ 4 (Jan. 7, 2016)). Bonner served as a bundler for a 2012 presidential campaign, Second Supp. Submission at 62, and had extensive experience as a political fundraiser. *See infra* note 55.

⁵ Initial Submission at 2.

⁶ Second Supp. Submission at 7, 14.

⁷ *Id.* at 13-14.

⁸ *Id.* app. E.12 (Decl. of Phillip Picchietti ¶¶ 24-25 (Jan. 4, 2016)). Aside from Picchietti, several other executives characterized Bonner as overseeing the program. *See id.* app. E.3 (Decl. of John Conway ¶ 14 (Jan. 4, 2016)); *id.* app. E.6 (Decl. of Christopher Lis ¶ 14 (Jan. 4, 2016)); *id.* app. E.7 (Decl. of Stephen Mackin ¶ 6 (Jan. 4,

1 though Phillip Picchietti, CTCA's CFO, occasionally signed off on the issuance of CMI
2 Bonuses.⁹ CMI Bonuses were treated as compensation and were coded for accounting purposes
3 like any other bonus compensation as "Gross Wages / Salaries."¹⁰

4 Notwithstanding the original intent of the bonuses, they apparently "evolved into a
5 method of providing funds that were primarily used for political contributions."¹¹ According to
6 CTCA, "[t]here was no formal internal tracking of Bonus distributions or monitoring of
7 recipients' use of their Bonus funds."¹² CTCA admits, however, that senior executives made
8 specific solicitations for political contributions and they had some level of knowledge of
9 resultant contributions made by those who received the CMI Bonuses.¹³ Accordingly, CTCA
10 concedes that there is a "very close connection between particular federal political contributions .
11 . . and providing the CMI Bonuses," noting "many instances in which the Bonuses were
12 requested by the recipients directly in conjunction with a pending solicitation or a recent political
13 contribution."¹⁴

2016)); *id.* app. E.8 (Decl. of Eric Magnussen ¶ 9 (Jan. 4, 2016) (stating he felt "pressure" from Bonner to contribute)); *id.* app. E15 (Decl. of Peter Yesawich ¶ 8 (Jan. 4, 2016)).

⁹ Second Supp. Submission at 13. Picchietti claims that his role in providing the reimbursements was "ministerial," and that he had no independent authority to approve CMI Bonuses. Decl. of Phillip Picchietti ¶¶ 23-25. The Submission, however, includes an account from one of the conduits who says he consulted with Picchietti about the CMI Bonuses and Picchietti informed him that the bonuses were designed to support contributions to causes and candidates. Decl. of John Steiner ¶ 9.

¹⁰ Second Supp. Submission at 14. Mayo would later suggest that the CMI Bonuses should be recorded under "Lobbying & Political Contributions," although this change was never implemented. *Id.* at 14 n.13; 65.

¹¹ *Id.* at 12; *see id.* at 13 ("We found no evidence of any written request for a CMI Bonus for the purpose of funding a charitable contribution.").

¹² Second Supp. Submission at 15; Decl. of Robert Mayo ¶ 6.

¹³ Initial Submission at 4.

¹⁴ Second Supp. Submission at 7.

1 According to the Submission, during the period from September 15, 2009, through
2 September 15, 2014,¹⁵ there were 134 total CMI Bonuses issued to approximately 25 individuals
3 who made federal political contributions.¹⁶ The total amount of those CMI Bonuses is
4 \$1,523,821.28 (gross) and \$1,014,600.28 (net).¹⁷ These 25 individual recipients made a total of
5 \$1,114,214 in federal contributions during the period; when adjusting for individuals who made
6 contributions in excess of the CMI Bonuses they received, the total amount of federal
7 contributions made during this period by CMI Bonus recipients is \$696,443.65.¹⁸ Seven of the
8 25 recipients who made federal political contributions during this period did so only once.

9 In the period from April 24, 2002, to September 15, 2009, CTCA reimbursed its
10 executives for a total of \$155,813 in federal contributions.¹⁹ CTCA has identified eight active
11 committees that received 60 of these contributions, totaling \$82,313, and 11 now-terminated
12 committees that received 48 of these contributions, totaling \$73,500.²⁰

13 B. CTCA Fundraising

14 Most of the solicitations for contributions came from either Bonner or Robert Mayo, the
15 former Vice Chairman of the Board of Directors,²¹ and bonus recipients frequently reached out

¹⁵ This time period remains within the statute of limitations.

¹⁶ Second Supp. Submission at 16; *id.* app. B.3. Ten of those bonus recipients have joined in the Submission: John Conway, Scott Jones, Christopher Lis, Stephen Mackin, John McNeil, Anne Meisner, John Steiner, Eric Magnussen, Edgar Staren, and Peter Yesawich. *Id.* app. B.1.

¹⁷ Second Supp. Submission at 16; *see id.* app. B.1.

¹⁸ *Id.* at 17; *see id.* app. C.1. Nearly all of this discrepancy is the result of one individual (Stephen Bonner) and his family, who combined to make \$435,819 in contributions in the statute of limitations period after receiving only \$26,338 in CMI Bonuses. *Id.* at 18.

¹⁹ *See* Fourth Supp. Submission, Attachs. 1, 2.

²⁰ *See id.*

²¹ *See* Second Supp. Submission at 13; *id.* app. E.4 (Decl. of Scott Jones ¶¶ 12-13 (Jan. 4, 2016)); *id.* app. E.5 (Decl. of Stephen Kroll ¶ 13 (Jan. 6, 2016)); Decl. of Stephen Mackin ¶ 6; Decl. of Phillip Picchiatti ¶¶ 16-22; Decl.

1 to Bonner, Mayo, or Cary to request the bonus distributions.²² Many of the solicitations occurred
2 in connection with specific “fundraising initiatives”²³ that were primarily led by Bonner,
3 Stephenson, and Mayo.

4 Between September 15, 2009, and September 15, 2014, CTCA conducted at least 45
5 fundraising initiatives for approximately 31 federal candidates.²⁴ 20 of those initiatives involved
6 hosted events at CTCA facilities.²⁵ An additional 18 initiatives involved events held at other
7 locations, including the homes of Mayo, Bonner, and Stephenson, and at a country club where
8 Mayo held a CTCA-paid membership. Seven of CTCA’s fundraising initiatives were
9 unconnected to a specific in-person meeting or activity.²⁶ CTCA states that “approximately
10 ninety percent of the federal political contributions by Bonus recipients were made in
11 connection” with these fundraising initiatives.²⁷

of Peter Yesawich ¶¶ 13-14. Often, the solicitations were sent by Bonner or Mayo’s assistants. See Second Supp. Submission at 13, 15.

²² Second Supp. Submission at 12. Two executives indicated that Roger Cary initially informed them about participating in the CMI Bonus program. See Decl. of Scott Jones ¶ 4, 7 (upon his promotion in 2012, “Cary told me that the company would periodically ask me to make political contributions and that, if I chose to give, the company had a management bonus that it would provide me”); Decl. of Anne Meisner ¶¶ 8, 10 (stating that she was told to email Cary or Bonner’s assistant when she exhausted her CMI Bonus funds). Cary, however, maintains that he was not involved with the approval or allocation process. Second Supp. Submission app. E.2 (Decl. of Roger Cary ¶ 13 (Dec. 29, 2015)).

²³ In its *sua sponte* submission, CTCA uses the term “fundraising initiatives” to refer to “fundraising efforts by a CTCA executive that typically commenced with a solicitation and resulted in contributions by two or more Bonus recipients,” Second Supp. Submission at 20, n. 24, and all of which involved interaction between campaigns and CTCA executives and staff. In “numerous [other] instances . . . Bonus recipients made individual contributions to campaigns that did not appear to be connected to a particular initiative.” *Id.*

²⁴ *Id.* at 20.

²⁵ *Id.* One of these 20 events did not actually take place at a CTCA facility but was hosted by CTCA at a Chicago hotel. See *id.* app. D at 40. For the purposes of our analysis, we consider it alongside the events hosted at CTCA facilities.

²⁶ *Id.* at 21.

²⁷ *Id.* at 20.

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1 While each initiative differed slightly, administrative tasks (such as arranging agendas,
2 coordinating use of corporate space, setting fundraising goals, collecting checks, monitoring
3 contributions, and communicating with campaigns and consultants) were carried out with the
4 involvement and planning of CTCA staff.²⁸ Solicitations were typically made by Bonner and
5 Mayo, and either they or their executive assistants issued follow-up communications seeking the
6 contributions.²⁹ CTCA estimates that administrative staff spent a total of 335 hours between
7 September 15, 2009 and September 15, 2014 (for an estimated value of \$12,412.43) on
8 fundraising and event planning.³⁰

9 For the initiatives involving either no in-person activity or an event held at a non-CTCA
10 location (including the homes of its executives), there is no evidence that CTCA paid the
11 catering or space expenses. When CTCA hosted a federal candidate, it often provided corporate
12 space and typically provided food and beverages for the event. For four of the 20 such events,
13 there is evidence in the Submission that the candidate committees attempted to ensure that the
14 transactions were legal, either by providing payment to CTCA or by providing in-kind
15 contribution forms to the individual who covered the expenses.³¹ For the other 16 such events,
16 the investigation uncovered little evidence indicating who paid for the food and corporate space,
17 nor did it indicate that CTCA was ever reimbursed by the campaigns.³² The Submission does
18 not provide an estimate of the total value of the corporate space and food and beverages it

²⁸ See *id.* at 32-35.

²⁹ *Id.* at 26, 29. In addition to Bonner and Mayo, Conway, Staren, and Richard Haldeman (President and CEO of SWRMC) each occasionally solicited contributions during the SOL period. *Id.* at 26, n.29. Additionally, at least one solicitation appears to have been made at the request of Stephenson. See *infra* at 11.

³⁰ See Fifth Supp. Submission, Attach. 1.

³¹ See Second Supp. Submission app. D at 27, 29, 30, 40.

³² Second Supp. Submission at 32-34.

1 provided in connection with its events, although there is evidence in the Submission that the
2 expenses for a single such event were relatively de minimis.³³ In addition, the Submission
3 includes two instances where CTCA paid for a candidate's transportation to an off-site event.³⁴

4 Accounts among the executives differ as to the level of obligation they felt to make
5 contributions in response to each solicitation.³⁵ Some viewed the contributions as entirely
6 voluntary and occasionally declined to make contributions in response to certain solicitations,
7 while others felt obligated to respond to every solicitation, even for candidates they were
8 personally reluctant to support.³⁶ According to CTCA, "there were never threatened or actual
9 adverse employment consequences when executives chose not to contribute."³⁷ CTCA states
10 that "[t]he majority of recipients viewed Bonus funds as their own money, and some even used
11 funds for personal purposes."³⁸ Many, however, "also believed the funds should be used for
12 purposes in [CTCA's] interest," including for "contributions to political campaigns that CTCA
13 supported" and for which CTCA solicited them.³⁹

³³ Three examples of amounts include \$150 for the corporate space, \$175 for the space plus food, and \$150 for the food. *See id.* app. D at 27, 29, 30.

³⁴ *See id.* app. D at 43, 51.

³⁵ Second Supp. Submission at 30-31.

³⁶ *Id.*

³⁷ *Id.* at 31.

³⁸ *Id.* at 32.

³⁹ *Id.*

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C. Reimbursements to CTCA Executives

1. Richard Stephenson

In addition to the CMI Bonuses, CTCA discovered on November 30, 2015, that it had, “through a series of administrative errors,” reimbursed Stephenson’s personal trust account (the “Stephenson Trust”) for contributions he made to federal candidates.⁴⁰ In the five years prior to the discovery, CTCA reimbursed 17 of Stephenson’s contributions, totaling \$120,700.⁴¹ CTCA states that the individuals who manage the Stephenson Trust mistakenly submitted for reimbursement as “business expenses” the contributions, entirely without Stephenson’s knowledge.⁴² CTCA also states that the individuals charged with processing the reimbursements “did not adequately scrutinize” the requests from the Stephenson Trust before approving them.⁴³

2. Cornel Williams

Cornel Williams, president of a management company owned by Stephenson, was also reimbursed for two federal contributions totaling \$3,500.⁴⁴ According to CTCA, Williams made the contributions in 2012 with checks drawn from his personal account. According to Williams, Dennis Lynde, who oversees Stephenson’s personal finances,⁴⁵ told Williams that he could be

⁴⁰ Third Supp. Submission at 1.

⁴¹ See *id.*, Attach. A (Table A.1). Although the Submission states that Stephenson did not receive or have knowledge of the CMI Bonuses, Second Supp. Submission at 15, many of his reimbursed contributions were made to the same committees, and at approximately the same time as the contributions made by the CMI Bonus recipients. See *id.* app. C.3; Third Supp. Submission, Attach. A (Table A.1).

⁴² Third Supp. Submission at 1-2; see *id.* Attach C.5 (Decl. of Richard J. Stephenson ¶¶ 11-13 (Feb. 18, 2016) (attesting to Stephenson’s lack of involvement in the processing or payment of reimbursement requests through the Stephenson Trust)); *id.* at 6; *id.* Attach. C.1 (Decl. of Anique Harrigan ¶¶ 4, 19 (Jan. 15, 2016) (same)); *id.* Attach. C.2 (Decl. of Dennis P. Lynde ¶¶ 6, 8, 12, 15 (Feb. 24, 2016) (same)); *id.* Attach. C.3 (Decl. of Ruth Pfotenhäuser ¶¶ 5, 13, 15-16 (Feb. 24, 2016) (same)); *id.* Attach C.4 (Decl. of Erin Reeve ¶¶ 13-14, 20 (Feb. 23, 2016) (same)).

⁴³ Third Supp. Submission at 2.

⁴⁴ *Id.*

⁴⁵ Decl. of Dennis P. Lynde ¶ 3.

1 reimbursed for his political contributions,⁴⁶ which Lynde denies).⁴⁷ Williams then submitted
2 reimbursement requests to the Stephenson Trust, which included those amounts in its “business
3 expenses” reimbursement requests to CTCA.⁴⁸

4 3. Joe Nicholson

5 Although evidently not part of the CMI Bonus program, CTCA appears to have
6 reimbursed an executive, Joe Nicholson, \$3,154 for a portion of the expenses he paid for a
7 reception.⁴⁹

8 **D. Direct Contribution by CTCA**

9 In January 2012, CTCA made a \$1,000 contribution to Martha for Congress, the
10 authorized committee of Martha Mitchell Zoller, a candidate for Congress in Georgia’s 9th
11 District.⁵⁰ CTCA states that it found no evidence that the committee returned or refunded the
12 contribution to CTCA.⁵¹

13 **E. Discovery by the CTCA Board of Directors and Remedial Measures**

14 CTCA states that its Board first learned about the CMI Bonuses in late 2014, after which
15 it hired outside counsel to conduct an independent investigation into the program.⁵² CTCA states

⁴⁶ Decl. of Cornel Williams ¶ 4.

⁴⁷ Decl. of Dennis P. Lynde ¶¶ 16-17.

⁴⁸ Third Supp. Submission at 5-6.

⁴⁹ See Second Supp. Submission app. D at 50. Nicholson did not join the Submission, and this reimbursement does not appear to have been included as part of the CMI Bonus program. See *id.* app. B.

⁵⁰ Third Supp. Submission at 6; *id.* Attach. A (Table A.2).

⁵¹ *Id.* at 6.

⁵² Second Supp. Submission at 4-5. Mayo and Bonner were members of the Board and received CMI Bonuses. CTCA maintains, however, that there is “no evidence that the Board was aware of the political use of the Bonuses, or that [Mayo and Bonner] . . . ever informed the Board that corporate funds were being used for these purposes.” *Id.* at 4.

1 that it found “no evidence or indication that any legal review of the CMI Bonus practice was
2 ever undertaken or contemplated by internal or by external counsel, or by anyone else at CTCA,”
3 nor was the program ever presented to the Board of Directors or CTCA’s external auditors.⁵³
4 The Submission states repeatedly that neither those leading the CMI Bonus program nor those
5 executives receiving the CMI Bonuses had any knowledge or concerns that the program was
6 illegal or any intent to evade restrictions on federal political contributions.⁵⁴ CTCA further
7 argues that the investigation revealed no intent to conceal the CMI Bonuses, nor indications of
8 willful ignorance of unlawfulness, nor specialized political experience among CTCA
9 executives.⁵⁵

10 Several individuals stated that the involvement of Steven Kroll, former Senior Vice
11 President and General Counsel of CTCA, in the CMI Bonuses and his inclusion on the
12 solicitations from Bonner and Mayo suggested to them that the practice was legal.⁵⁶ Kroll states
13 that although he served as CTCA’s chief legal officer, he had no specialized training in campaign

⁵³ *Id.* at 10. CTCA notes that John Conway, then CTCA’s Senior Vice President of Payor Relations, was asked by Mr. Mayo to “consider and prepare thoughts on the Bonus practice.” *Id.* at 11. His memorandum did not appear to draw any conclusions about the program’s legality. *Id.* Additionally, Mayo and Kroll consulted with outside counsel on legal and tax advice on forming an independent-expenditure-only political committee in 2012, but the consultation evidently did not include a discussion about the CMI Bonuses. *See id.* at 60.

⁵⁴ *See, e.g., id.* at 4, 7, 8-10, 36-46, 51-65; Decl. of Robert Mayo ¶¶ 6, 8; Decl. of John Conway ¶¶ 11-12; Decl. of Scott Jones, ¶¶ 10-11. CTCA also states that when the program was initially curtailed for most recipients in 2013, it was not due to concerns over illegality; rather, it was part of broader cost-cutting measures implemented by a new CEO. Second Supp. Submission at 60; Decl. of Phillip Picchietti ¶¶ 29-33.

⁵⁵ Second Supp. Submission at 66-69; *see, e.g.,* Decl. of Stephen Bonner ¶¶ 6, 11-12; Decl. of Roger Cary ¶ 5; Decl. of Eric Magnussen ¶¶ 14-15; Decl. of Stephen Mackin ¶ 10; Second Supp. Submission app. E.13 (Decl. of Edgar Staren ¶¶ 11-13 (Dec. 21, 2015)). Bonner and Mayo had experience as political fundraisers, Second Supp. Submission at 62, 68-69, and Bonner, at least, was familiar with the federal prohibition on corporate contributions as well as corporate reimbursement of contributions and required use of personal funds. *Id.* at 64. CTCA argues, however, that despite such knowledge, the circumstances indicate that neither Bonner nor Mayo understood the CMI Bonuses as potentially running afoul of those prohibitions. *Id.*

⁵⁶ *See* Decl. of Roger Cary ¶ 8; Decl. of John Conway ¶ 14; Decl. of John McNeil ¶¶ 9-10; Decl. of Peter Yesawich ¶¶ 13-14. One individual described consulting Kroll twice about the legality of the CMI Bonuses and being told that the practice raised no legal issues. Decl. of Christopher Lis ¶¶ 10-13.

1 finance law, did not understand that the Bonuses could violate the law, did not identify the legal
2 risks of the program, and did not seek outside counsel's opinion of its legality.⁵⁷

3 Stephenson states that he was aware of and generally supported political activity by
4 CTCA executives and "occasionally hosted events for these purposes."⁵⁸ On multiple occasions,
5 Stephenson (along with Mayo and Bonner) met with candidates or their staff in order to plan
6 CTCA fundraisers.⁵⁹ Stephenson states that although he was aware of efforts by Mayo and
7 Bonner "to generate support within and without CTCA for political candidates,"⁶⁰ he was
8 generally unaware of emails from Mayo and Bonner to CTCA executives soliciting contributions
9 and invoking Stephenson's name in support of CTCA's fundraising efforts, because he has not
10 had a CTCA email account since 2005.⁶¹ The record, however, shows that Stephenson's
11 assistant, Erin Reeff, regularly received and sent emails on Stephenson's behalf during the
12 relevant time period.⁶² Furthermore, Reeff was included on solicitations meant for Stephenson⁶³
13 and, on at least one occasion, Stephenson requested that another assistant (Adriane Lewis, who

⁵⁷ Decl. of Stephen Kroll ¶¶ 15, 17-18.

⁵⁸ Decl. of Richard J. Stephenson ¶ 6.

⁵⁹ See Second Supp. Submission app. D at 6-35.

⁶⁰ Decl. of Richard J. Stephenson ¶ 7.

⁶¹ *Id.* ¶ 8.

⁶² See, e.g., Second Supp. Submission, Reference Documents at 0001057-0001059 (June 26, 2012, email from Reeff to Bonner, Mayo, and others, attaching Stephenson's handwritten comments to previous Mayo email discussing plans for CTCA fundraiser); *id.* at 0001177 (noting that Stephenson's fundraiser invitation had been sent to Reeff); *id.* at 0001488-0001490 ("[Stephenson] asked me to forward this to you"; "Erin, could you send the following email to [Stephenson]?"); *id.* at 0000692 (Mayo copies Reeff on a reply, noting that he has "taken the liberty of forwarding your email to Mr. Richard J. Stephenson"); *id.* at 0001009-0001010 (Mayo asks Reeff to "please deliver a copy of this email to [Stephenson]"); *id.*, Appendix D at 24 ("Adriane Lewis, on Mr. Mayo's behalf, forwarded the email to Richard Stephenson's assistant, Erin Reeff, asking her to print it for Mr. Stephenson for an upcoming meeting"). On at least one email from Bonner, "Richard J. Stephenson" is the name associated with the email address "erinreeff@icicusa.com." See *id.*, Reference Documents at 0001057.

⁶³ See, e.g., Second Supp. Submission app. D at 10.

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1 frequently sent out solicitations on behalf of Mayo) send out solicitations for contributions to Jeff
2 Flake for U.S. Senate, which was done the following day.⁶⁴ In a follow-up solicitation, Lewis
3 noted Stephenson's particular interest in the Flake fundraiser. On the morning of the reception,
4 Lewis provided Reeffer with a list of contributions.⁶⁵ Reeffer was also copied on email solicitations
5 sent by Mayo and others, many of which invoke Stephenson's name in support of making
6 contributions.⁶⁶ Additionally, in an email from Mayo soliciting contributions for then-
7 Congressman Mark Kirk, Mayo asks Reeffer to "coordinate gathering [Stephenson] and the
8 family's contributions," and in the following sentence asks Lewis to "please write my check
9 from my community fund."⁶⁷

10 Nevertheless, Stephenson states that he was not aware of the fact that the CMI Bonuses
11 were being used to reimburse individuals for political contributions until late 2014.⁶⁸
12 Stephenson attests that although he oversaw the Board's Compensation Committee, that
13 oversight "did not include specific, individualized review or approval of so-called spot bonuses
14 such as the CMI Bonuses, which were authorized by certain senior CTCA executives without
15 [his] involvement, awareness, or knowledge."⁶⁹ Mayo has stated that he vaguely recalls a

⁶⁴ *Id.* at 34.

⁶⁵ *Id.* at 35.

⁶⁶ *See, e.g.*, Second Supp. Submission, Reference Documents at 0000594-0000595, 0000683, 0000737, 0001010, 0001060, 0001303-0001304 (email from Lewis noting that the solicitation reminder is being sent "at the request of our Chairman [Stephenson]").

⁶⁷ *Id.*, Reference Documents at 0000683. The available information does not indicate that Stephenson saw or was made aware of the contents of every email to Reeffer, nor of this email in particular. According to Reeffer, she acted as a "gatekeeper" for Stephenson, passing along approximately "one-tenth" of the information she receives on his behalf. Decl. of Reeffer ¶ 4-5.

⁶⁸ Decl. of Richard J. Stephenson ¶ 9.

⁶⁹ *Id.*

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1 discussion with Stephenson regarding bonuses in connection with political fundraising.⁷⁰
2 Stephenson, however, states that he does not recall any such conversation with Mayo relating to
3 bonuses in connection with political fundraising, nor does he recall any conversations suggesting
4 to him that anything may have been improper about the political contributions of CTCA
5 executives.⁷¹ Additionally, another executive recalls an October 2012 exchange in which he told
6 James Grogan, President of the Board of Directors at Western Regional Medical Center, that
7 CTCA reimbursed senior executives for political contributions, and Grogan replied that he would
8 discuss the matter with Stephenson.⁷²

9 CTCA states that after Stephenson first learned that the CMI Bonuses were being used to
10 make contributions, Stephenson and the non-conflicted members of the Board chartered an
11 investigatory committee to supervise a comprehensive investigation of the practice.⁷³ CTCA
12 states that the Board also undertook remedial measures, including: adopting a political
13 contributions policy as part of the CTCA Standards of Conduct; preparing a comprehensive
14 Political Activity Compliance Manual; approving a new Ethics Policy and Manual “that seeks to
15 ensure CTCA stakeholders always do the right thing, even if it means going beyond strict
16 compliance with a policy or applicable law”; designing and implementing new training programs
17 in the area of federal political activity; issuing disciplinary letters to all of the CMI Bonus
18 recipients; adding outside directors with expertise to the reconstituted Board; and retaining local

⁷⁰ Second Supp. Submission at 26, n.30.

⁷¹ Decl. of Richard J. Stephenson ¶ 10.

⁷² Decl. of Edgar Staren ¶ 18.

⁷³ Second Supp. Submission at 4, 70-73.

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1 counsel to render ongoing advice to each regional medical center on any future state or local
2 political activity.⁷⁴

3 **III. LEGAL ANALYSIS**

4 The Act prohibits corporations from making contributions to a federal political
5 committee (other than independent-expenditure-only political committees)⁷⁵ and further prohibits
6 any officer of a corporation from consenting to any such contribution by the corporation.⁷⁶
7 Generally, absent reimbursement in accordance with Commission regulations, corporations may
8 not use corporate resources or facilities to engage in fundraising activities for candidates and
9 their authorized committees, which includes, among other things, ordering support staff to plan,
10 organize, or carry out a fundraising project as a part of their work responsibilities using corporate
11 resources, the use of corporate facilities in connection with fundraising activities, and providing
12 catering or other food services.⁷⁷

13 The Act also provides that “[n]o person shall make a contribution in the name of another
14 person.”⁷⁸ That prohibition extends to “knowingly permit[ting]” one’s name to be used to effect
15 the making of a contribution in the name of another or, under the Commission’s implementing
16 regulation, to “knowingly help[ing] or assist[ing] any person in making a contribution in the
17 name of another.”⁷⁹ The Commission has explained that the provisions addressing those who
18 knowingly assist a conduit-contribution scheme apply to “those who initiate or instigate or have

⁷⁴ *Id.* at 72-73.

⁷⁵ *See, e.g.,* Advisory Op. 2010-11 (Commonsense Ten).

⁷⁶ 52 U.S.C. § 30118(a); *see also* 11 C.F.R. § 114.2(b), (e).

⁷⁷ 52 U.S.C. § 30118; *see generally* 11 C.F.R. part 114.

⁷⁸ 52 U.S.C. § 30122; *see also* 11 C.F.R. § 110.4(b)(1)(i).

⁷⁹ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(ii), (iii).

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1 some significant participation in a plan or scheme to make a contribution in the name of
2 another.”⁸⁰

3 **A. There is Reason to Believe CTCA Violated Sections 30118(a) and 30122**

4 The Submission states that CTCA (primarily through its officers, Bonner, Mayo, and
5 Stephenson) initiated approximately 45 distinct fundraising initiatives between September 15,
6 2009 and September 15, 2014, which led to approximately 90 percent of the contributions made
7 by CMI Bonus recipients.

8 CTCA estimates that administrative staff spent a total of 335 hours during the SOL
9 Period (for an estimated value of \$12,412.43) on fundraising and event planning. Additionally,
10 during the fundraisers, CTCA often provided corporate space and typically provided food and
11 beverages for the event, usually without reimbursement. The Commission estimates, based on
12 the available information, that such expenses ranged from \$150-\$300 per event, and that there
13 are 16 events where CTCA does not appear to have been reimbursed (totaling an estimated
14 \$2,400 – \$4,800).⁸¹

15 In connection with the fundraising initiatives, CTCA’s officers solicited executives for
16 contributions to preferred candidates and provided CMI Bonuses as reimbursement. Between
17 September 15, 2009 and September 15, 2014, CTCA issued 134 CMI Bonuses (for a total of

⁸⁰ *Explanation and Justification for 11 C.F.R. § 110.4*, 54 Fed. Reg. 34,098, 34,105 (Aug. 17, 1989).

⁸¹ *See supra* at note 31. The Submission does not include evidence demonstrating that these recipient committees knowingly accepted corporate contributions. *Cf.* First General Counsel’s Report at 6-10, MUR 6215 (Tate Snyder Kimsey Architects, Ltd., *et al.*) (detailing a series of communications between recipient committee and corporation suggesting the committee knew that it was accepting corporate contributions). In any event, the amount per recipient committee appears to be de minimis and does not justify opening separate MURs for each committee.

1 \$696,443) for the purpose of reimbursing its executives for contributions to federal candidates.⁸²
2 In addition, during the same time period CTCA reimbursed Stephenson (\$120,700) and Williams
3 (\$3,500) for contributions they made to federal candidates.⁸³ CTCA also appears to have
4 reimbursed Nicholson for expenses (\$3,154) incurred when he hosted an event for a federal
5 candidate.⁸⁴

6 Finally, based on the available information, CTCA also issued a \$1,000 check from its
7 corporate treasury to a committee, and that amount was not refunded.⁸⁵

8 Accordingly, the Commission finds reason to believe that CTCA violated 52 U.S.C.
9 §§ 30118(a) and 30122 by making corporate contributions to federal candidates, and by making
10 prohibited corporate contributions in the name of another.⁸⁶

⁸² See *supra* at 3-5; Second Supp. Submission at 17; see *id.*, app. C.1. In the period from April 24, 2002, to September 15, 2009, CTCA reimbursed its executives for \$155,813 in federal contributions. See Fourth Supp. Submission at 3, 4.

⁸³ See *supra* at 8-10.

⁸⁴ See *supra* note 48.

⁸⁵ See *supra* at 10.

⁸⁶ See MUR 6889 (Nat'l Air Transp. Ass'n) (corporation reimbursed individual contributions to SSF through salary increases); MUR 6465 (The Fiesta Bowl, Inc.) (corporation reimbursed individual contributions to candidates through bonuses); MUR 6223 (Edward St. John) (same); MUR 6143 (Galen Capital Group) (same); MUR 5818 (Feiger, Feiger, Kenney, Johnson and Giroux, P.C.) (same); MUR 5765 (Crop Production Services, Inc.) (same); MUR 5666 (MZM, Inc.) (same). Although the respondents acknowledge that there is a factual basis for finding that CTCA made contributions in the name of another, Second Supp. Submission at 48, they contend that the CMI Bonus practice "differs significantly" from other reimbursement schemes that the Commission has found to be in violation of the Act because the CMI Bonuses were paid out as part of the normal payroll processes, taxed as compensation, deposited into personal accounts, issued in lump sum amounts without exact one-to-one correlation with particular contributions, under the "control" of the recipient, not formally tracked after disbursement to the recipient, and used in part for non-political purposes. This argument ignores the many instances where CMI Bonuses were requested by recipients in response to specific solicitations, *id.* at 7, and the fact that while some of the funds went to non-political causes, the bulk of the CMI Bonuses was used to make federal contributions. Furthermore, arguments relying on the recipients' ownership of, or discretion over, the funds *after* they were transferred from CTCA does not change the fact that the CMI Bonuses were (often explicitly) provided by CTCA to the recipients for the purpose of making federal contributions. See *United States v. Whittemore*, No. 13-10515 (9th Cir. Feb 26, 2015) ("The status of the donated funds under state property law, at the time of their donation, was irrelevant to a determination of who 'made' the contribution for the purposes of § [30122]. The key issue under § [30122] is the source of the funds, regardless of the status of the funds under state property law at the time of the donation.") (citing *United States v. O'Donnell*, 608 F.3d 546, 550 (9th Cir. 2010)).

B. There is Reason to Believe Bonner and Mayo Violated Sections 30118(a) and 30122

In addition to knowingly acting as conduits in the CMI Bonus reimbursement scheme, Bonner and Mayo are identified in the Submission as individuals who either initiated, directed, solicited, or approved the fundraising activities and accompanying CMI Bonuses, or assisted other conduits in making a contribution in the name of another.⁸⁷

Although there is evidence that Cary and Picchietti were consulted by other individuals regarding the CMI Bonus program,⁸⁸ the available evidence suggests that their participation was far less significant than that of Bonner and Mayo. Neither Cary nor Picchietti had any role in creating the CMI Bonus program, nor did they send out solicitations for contributions. Both claim to have lacked independent authority to approve or issue CMI Bonuses, and the available information does not refute their assertions.⁸⁹

In other matters, the Commission has determined that there is reason to believe that corporate officers who significantly participate in a corporate reimbursement scheme may have violated the Act by assisting others in making contributions in the name of another and consenting to the making of corporate contributions.⁹⁰ Accordingly, the Commission finds reason to believe Bonner and Mayo violated 52 U.S.C. §§ 30118(a) and 30122.

⁸⁷ See *supra* at 5-6. Dennis Lynde, as the individual in charge of the Stephenson Trust, may have violated Sections 30118 and 30122 by directing the reimbursement of Stephenson and Williams for their contributions. Lynde did not join the Submission.

⁸⁸ See *supra* at notes 9, 22.

⁸⁹ *Id.*

⁹⁰ See MUR 6889 (Nat'l Air Transp. Ass'n); MUR 6465 (The Fiesta Bowl, Inc.); MUR 6223 (Edward St. John); MUR 6143 (Galen Capital Group); MUR 5818 (Feiger, Feiger, Kenney, Johnson and Giroux, P.C.); MUR 5765 (Crop Production Services, Inc.); MUR 5666 (MZM, Inc.).

C. The Commission Takes No Action As To Cary, Picchietti, Conway, Jones, Lis, Kroll, Mackin, McNeil, Meisner, Steiner, Magnussen, Staren, And Yesawich Other Than To Authorize Letters Of Caution

The available information indicates that each of the individual respondents who received one or more CMI Bonuses (including Bonner and Mayo) was aware of the purpose of the CMI Bonuses, knowingly participated in the program (often after consulting with Bonner and Mayo), and expected to be reimbursed or advanced funds for their contributions.⁹¹ Even for those respondents who were not significantly involved with the administration of the CMI Bonuses and believed that participation in the CMI Bonuses was legal,⁹² they knowingly participated in the reimbursement scheme.⁹³ The Commission, however, takes no action against the conduits who do not appear to have played any significant role in carrying out the reimbursement scheme beyond requesting and receiving reimbursements,⁹⁴ including, Cary, Picchietti, Conway, Jones, Lis, Kroll, Mackin, McNeil, Meisner, Steiner, Magnussen, Staren, and Yesawich.

⁹¹ See *supra* at 3-4.

⁹² See Fifth Supp. Submission at 1.

⁹³ See 52 U.S.C. § 30122 (prohibiting knowingly permitting one's name to be used to effect a contribution in the name of another).

⁹⁴ In past matters, the Commission has typically declined to pursue individual conduits who did not play some significant role in carrying out the conduit scheme. In more recent matters, it has done so by declining to take action against such individuals at the RTB stage. See MUR 6889 (Nat'l Air Transp. Ass'n) (taking no action against the conduits who were reimbursed by corporate funds for contributions to SSF); MUR 6623 (William A. Bennett) (taking no action against "lower-level conduit employees" who did not actively participate in the reimbursement scheme); MUR 6465 (The Fiesta Bowl, *et al.*) (taking no action against the "subordinate employees" and "employee spouses" who were not actively involved the scheme and were acting under the direction of corporate officers). Prior to the more recent practice, the Commission in many instances initially found reason to believe but then took no further action at later stages of the respective matter. See *e.g.*, MUR 6223 (Edward St. John, *et al.*) (initially finding RTB against six conduits on the grounds that they had an "expectation of reimbursement"; later taking no further action after finding no evidence that they "were told or expected that they would be reimbursed at the time they made the contributions"); MUR 6143 (Galen Capital) (finding RTB that conduits violated the Act; later recommending no further action even though conduits "consented" to reimbursement of contributions, because a single individual was deemed to have directed the reimbursement scheme); MUR 5818 (Feiger, Feiger, Kerney, Johnson and Giroux, P.C.) (initially finding RTB against conduits but ultimately taking no action); MUR 5765 (Crop Production Services, Inc.) (finding RTB that all conduits violated the Act and conciliating with all except two conduits, who were deemed to have little involvement in the scheme); MUR 5666 (M2M, Inc.) (finding RTB that all

D. There is No Reason to Believe Stephenson Violated Section 30122

1 The available information does not show that Stephenson knowingly reimbursed
2 executives for their contributions or knowingly accepted CTCA's reimbursement of
3 contributions he made from his personal account. Stephenson states that he first became aware
4 that the CMI Bonuses were being used to reimburse individuals for political contributions after
5 outside counsel discovered the practice, that he did not review the CMI Bonuses, and that they
6 were authorized "without [his] involvement, awareness, or knowledge."⁹⁵ The Submission
7 includes information indicating that Stephenson was active in CTCA's fundraising efforts, and
8 was aware that CTCA executives were making contributions, but the Submission does not
9 include direct evidence that refutes Stephenson's statement that he did not approve of, nor was
10 he even aware of, the practice of using CMI Bonuses to reimburse those contributions from
11 CTCA's corporate funds.⁹⁶ Furthermore, Stephenson states that he does not recall any
12 conversation relating to bonuses in connection with political fundraising, nor does he recall any
13 conversations suggesting to him that anything may have been improper about the political
14 contributions of CTCA executives.⁹⁷

16 Regarding the reimbursement of Stephenson's contributions, the Submission states that
17 the contributions were "erroneously identified as business expenses" and submitted to CTCA for
18 reimbursement by the individuals who administer the Stephenson Trust, entirely without

conduits violated the Act; later taking no further action after determining that a single officer exercised almost total control over the scheme).

⁹⁵ Decl. of Richard J. Stephenson ¶ 9.

⁹⁶ See *supra* at 12-14.

⁹⁷ Decl. of Richard J. Stephenson ¶ 10.

1 Stephenson's knowledge. Affidavits submitted by several individuals support this position.⁹⁸
2 The Commission is aware of no other information suggesting that Stephenson knew that any of
3 his contributions were submitted for reimbursement (or were in fact reimbursed) until the
4 underlying facts were discovered by CTCA on November 30, 2015.

5 Accordingly, the Commission finds no reason to believe that Stephenson violated 52
6 U.S.C. § 30122.

7 **E. There is Reason to Believe Stephenson Violated Section 30118**

8 As noted above, although the available information does not provide any information
9 from which to conclude that Stephenson was aware that CTCA executives were being
10 reimbursed for political contributions, it does demonstrate that Stephenson was actively involved
11 in CTCA's overall fundraising scheme. Stephenson frequently met with candidates or their staff
12 in order to plan details of fundraising campaigns. He hosted multiple fundraising events planned
13 using corporate resources and invited CTCA executives to participate in the fundraising.⁹⁹ And
14 despite Stephenson's statement that he did not receive CTCA emails during the relevant time
15 period, it appears that he was made aware of several email solicitations and other emails
16 discussing fundraising activities through his assistant, Erin Reeff.¹⁰⁰ Furthermore, it appears that
17 although he may not have sent email solicitations himself, he may have directed such
18 solicitations to be sent on at least one occasion.¹⁰¹ Like Bonner and Mayo, Stephenson appears
19 to have played a significant role in directing CTCA's corporate fundraising scheme.

⁹⁸ *Supra* note 42.

⁹⁹ *See supra* at 11-12.

¹⁰⁰ *See supra* at 12-13.

¹⁰¹ *Id.*

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- 1 Accordingly, the Commission finds reason to believe Stephenson violated 52 U.S.C.
- 2 § 30118(a).¹⁰²

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¹⁰² See MUR 6889 (Nat'l Air Transp. Ass'n); MUR 6465 (The Fiesta Bowl, Inc.); MUR 6223 (Edward St. John); MUR 6143 (Galen Capital Group); MUR 5818 (Feiger, Feiger, Kenney, Johnson and Giroux, P.C.); MUR 5765 (Crop Production Services, Inc.); MUR 5666 (MZM, Inc.).